

Message Text

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ACTION L-03

INFO OCT-01 NEA-10 ISO-00 EB-07 /021 W
-----252344Z 046269 /63
R 251207Z MAY 77
FM AMEMBASSY MANAMA
TO SECSTATE WASHDC 4684

LIMITED OFFICIAL USE SECTION 1 OF 2 MANAMA 1134/1

E.O. 11652: N/A
TAGS: EFIN, BA
SUBJECT: RTV BAHRAIN

REF: STATE 114273

1. WHAT FOLLOWS SHOULD BE READ IN CONTEXT OF FACT THAT WE HAVE NO TRAINED LAWYERS ON OUR STAFF AND THAT WE GET OUR INFORMATION FROM THREE LOCAL LAWYERS WHO DEAL WITH FOREIGN AND MULTINATIONAL CORPORATIONS AND THEIR ACTIVITIES IN BAHRAIN. BANKRUPTCIES AND LIQUIDATIONS OF THESE COMPANIES ARE ALMOST UNHEARD OF.

2. FIRSTLY, IT IS OUR CLEAR UNDERSTANDING THAT RTV BAHRAIN WAS REGISTERED IN BAHRAIN AS A BAHRAINI COMPANY. IT WAS NOT REGISTERED AS A "FOREIGN COMPANY", FOR WHICH THERE ARE SEPARATE LEGAL STATUSES DEPENDING ON NATURE OF COMPANY. AS A BAHRAINI COMPANY, IT HAD 20 PERCENT GOVERNMENT OF BAHRAIN AND 80 PERCENT ABC OF LEBANON PARTICIPATION.

3. IN LOCAL EYES, AND AS WE UNDERSTAND IT, UNDER LOCAL LAW AND THE CHARTER OF RTV BAHRAIN, THE RELATIONSHIP BETWEEN ABC OF LEBANON AND INTERNATIONAL MANAGEMENT SERVICES, INC. (IMS) OF AMERICA WAS NOT CLEAR. NOR, IN TURN, WAS THE RELATIONSHIP BETWEEN IMS AND THE ARTHUR LIPPER CORPORATION CLEAR.

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4. AS WE UNDERSTOOD SITUATION AS OF LAST SEPTEMBER WHEN RTV BAHRAIN WAS STRUCK FROM REGISTER OF COMPANIES IN BAHRAIN, THE POSITION OF THE LIQUIDATOR WAS THAT ARTHUR LIPPER CORPORATION HAD NEVER ESTABLISHED IN HIS EYES ITS DIRECT RELATIONSHIP TO RTV BAHRAIN. THERE IS ONLY ONE EMBASSY OFFICER HERE NOW WHO WAS ACQUAINTED WITH PART OF

THIS PROBLEM AND HE RECALLS FINDING THE WEB OF RELATIONS BETWEEN RTV BAHRAIN, ABC OF LEBANON, IMS OF THE USA AND ARTHUR LIPPER CORPORATION MOST CONFUSING (AS REPORTED 76 MANAMA 1116). THE LIQUIDATOR TOLD THE EMBASSY IN FEBRUARY 1976 THAT DURING THE PREVIOUS NINE MONTHS, ARTHUR LIPPER CORPORATION HAD "DONE NOTHING" TO ESTABLISH ITS CLAIMS WITH HIS OFFICE (SEE 76 MANAMA 129).

5. EMBASSY'S MAIN CONCERN THROUGHOUT WAS TO SEE THAT FCIA CLAIMS WERE SETTLED TO ITS SATISFACTION, WHICH WE WERE TOLD THEY HAD BEEN IN 76 STATE 199023.

6. ACCORDING TO LOCAL LAWYERS, IT IS SOMETIMES BUT VERY SELDOM THE CASE THAT DEPOSITS ARE REQUIRED BY LOCAL COURTS EQUALLING ALL OR PART OF THE TOTAL SUMS CLAIMED. BUT, THEY INSIST, THEY KNOW OF NO CASE WHERE EQUAL DEPOSITS FROM BOTH PLAINTIFFS AND DEFENDANTS WERE NOT REQUIRED. THAT IS, IT IS NOT A BURDEN ONLY ON PLAINTIFF AS NOTED REFTEL, PARA 2 PART A. THE REQUIREMENT FOR DEPOSIT IS MADE ONLY IN MOST UNUSUAL CASES, WE ARE TOLD.

7. BAHRAIN CIVIL LAW IS BASED ON LEBANESE AND EGYPTIAN ADAPTATIONS OF FRENCH LAW; I.E., IT IS CODIFIED. IT IS NOT BASED ON BRITISH COMMON LAW. EMBASSY IS NOT QUALIFIED TO COMMENT ON WHETHER "LEGAL PROCEEDINGS ARE INDEED DIFFICULT TO CONDUCT". WE ASSUME THAT WITH THE HELP OF QUALIFIED LOCAL LAWYER FAMILIAR WITH LOCAL SYSTEM OF LAW, IT WOULD NOT PROVE ONEROUS. BUT WE AS AN INSTITUTION HAVE NO EXPERIENCE IN LOCAL COURTS NOR DO WE KNOW OF ANY FOREIGN FIRMS WITH LIMITED OFFICIAL USE

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SUCH EXPERIENCE. EXCEPT ON MINOR ISSUES SUCH AS CONTESTING HOUSE RENTS OR RELATIVELY MINOR BREACHES OF CONTRACT ON CONSTRUCTION PROJECTS. IN ANY CASE, SEE PARA 11 BELOW, RTV BAHRAIN BECAUSE OF ITS ORIGINAL CHARTER MAY NOT HAVE RECOURSE TO COURTS.

8. THERE ARE TWO INDIVIDUALS WHO WERE INVOLVED IN THE RTV LIQUIDATION CASE FROM BEGINNING TO END (LOCALLY THE "END" IS SEEN AS SEPTEMBER 1976). THEY ARE THE RTV LIQUIDATOR, DEREK F. FLETCHER, MANAGING PARTNER OF WHINNEY MURRAY AND COMPANY (IN ASSOCIATION WITH ERNST AND ERNST OF NEW YORK). FLETCHER WAS TRANSFERRED TO DUBAI, UAE IN THE SUMMER OF 1976 AND IS STILL RESIDENT THERE (TELEPHONE DUBAI 24201). HE VISITS BAHRAIN ONCE OR TWICE EVERY 4 - 6 MONTHS ON COMPANY BUSINESS. THE SECOND INDIVIDUAL IS TARIQ AL-MOAYYED, THE GOVERNMENT OF BAHRAIN MINISTER OF INFORMATION AND BROADCASTING WITH WHOM THE EMBASSY HAS FREQUENT MEETINGS AND CLOSE ASSOCIATION. WE HAVE NOT DISCUSSED THE RTV BAHRAIN MATTER WITH HIM SINCE AUGUST 1976 (76 MANAMA 1116) WHEN, IN ADDITION TO WHAT

EMBASSY REPORTED, HE EXPRESSED SOME PERSONAL BITTERNESS THAT EMBASSY HAD NOT ALERTED HIS PREDECESSOR AS DIRECTOR OF INFORMATION (SHAIKH MOHAMMAD BIN MUBARAK AL-KHALIFA, CURRENTLY MINISTER OF FOREIGN AFFAIRS) TO WHAT HE SAW AS LACK OF BONAFIDES OF AMERICANS INVOLVED WITH RTV BAHRAIN. EMBASSY WOULD HAVE NO OBJECTION TO DEPARTMENT INSTRUCTING EMBASSY ABU DHABI, THROUGH ITS OFFICE IN DUBAI, TO CONTACT FLETCHER AND ASK HIM FOR RECOUNTING OF PROCEDURES AND JUDGMENTS HE USED IN RECOMMENDING ELIMINATION OF ARTHUR LIPPER CORPORATION CLAIMS ON RTV BAHRAIN. DEPENDING ON CIRCUMSTANCES, WE WOULD BE PREPARED TO RAISE QUESTION WITH MINISTER OF INFORMATION AND BROADCASTING BUT WOULD EXPECT A RESPONSE SIMILAR TO

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FLETCHER'S AND, IN ADDITION, WOULD HAVE TO BE PREPARED TO REOPEN A QUESTION OF SOME POLITICAL AS WELL AS PERSONAL SENSITIVITY.

9. BOTH MINISTER AND FLETCHER (THE LATTER IN PARTICULAR) MADE CONSISTENT EFFORT TO KEEP EMBASSY INFORMED OF THE EVOLUTION OF THE CASE, PARTICULARLY WITH A VIEW TO THE FCIA CLAIM WHICH EMBASSY REGULARLY PRESSED. THEY MIGHT WELL TAKE IT AMISS THAT WE ARE RAISING SUCH FUNDAMENTAL QUESTIONS OF PROCESS AND JUDGMENT AT WHAT THEY WOULD VIEW AS THIS VERY LATE DATE.

10. EMBASSY IS NOT AWARE OF THE AMOUNT DISTRIBUTED TO CREDITORS OF RTV. OUR MAJOR CONCERN, THAT OF THE FCIA CLAIM, WAS SETTLED TO ITS SATISFACTION; BEYOND THAT, WE KNOW OF NO OTHER OUTSTANDING CLAIMS. IN FACT, WE DO NOT KNOW WHETHER AND IF SO IN WHAT AMOUNTS IMS OF NEW YORK WAS COMPENSATED. FROM OUR LAY PERSPECTIVE IT HAS ALWAYS SEEMED TO EMBASSY THAT ARTHUR LIPPER CORPORATION'S CLAIMS SHOULD BE ADDRESSED

TO IMS, AS WE UNDERSTOOD WAS DONE WHEN ALC WON A RESTRAINING ORDER FROM THE NEW YORK SUPREME COURT ADDRESSED TO IMS.

11. AS WE UNDERSTAND IT FROM THE FILES, THE ORIGINAL CHARTER OF RTV BAHRAIN INCLUDED MANDATORY PROCEDURES FOR LIQUIDATION/ BANKRUPTCY WHICH INVOLVED GOB MINISTRY OF FINANCE RATHER THAN LOCAL COURTS (SEE 75 MANAMA 090). AS WE UNDERSTAND THE FILES, THE LIMITED OFFICIAL USE

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INITIATOR OF THE ACTION AGAINST RTV BAHRAIN WAS THE NATIONAL BANK OF BAHRAIN. IT APPLIED TO THE GOB MINISTRY OF FINANCE FOR LIQUIDATION PROCEDURES TO BE INITIATED. WHEN COMPANY FAILED TO RESPOND CONVINCINGLY TO GOB, MINISTRY OF FINANCE APPOINTED LIQUIDATOR TO CARRY OUT LIQUIDATION PROCEDURES, WHICH, IN TURN, RESULTED IN ASSETS BEING TRANSFERRED TO GOB.
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